

**\*\*IN THE UNITED STATES DISTRICT COURT\*\***

**\*\*FOR THE WESTERN DISTRICT OF TEXAS\*\***

**\*\*ALPINE DIVISION\*\***

**\*\*SIMON AMUNGA NASIO,\*\***

**Plaintiff,**

**v.**

**\*\* UNITED STATES DEPARTMENT OF DEFENSE (DOD),\*\***

**Defendant.**

**\*\*Case No. [To be Assigned]\*\***

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**### \*\*COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF\*\***

Plaintiff **\*\*Simon Amunga Nasio\*\***, proceeding pro se, respectfully files this Complaint against **\*\*Defendant Secretary of the United States Air Force\*\***, in his official capacity as Secretary of the United States Air Force, and alleges as follows:

**### \*\*JURISDICTION AND VENUE\*\***

**1. This Court has jurisdiction pursuant to **\*\*28 U.S.C. § 1331\*\***, as this action arises under the **\*\*laws of the United States\*\***, including:**

- **\*\*10 U.S.C. § 504(b)(2)(B)\*\*** (governing discretionary enlistment of non-citizens);
- **\*\*5 U.S.C. § 701 et seq.\*\*** (Administrative Procedure Act);
- **\*\*5 U.S.C. § 2301 et seq.\*\*** (Merit System Principles);
- **\*\*42 U.S.C. § 2000e et seq.\*\*** (Title VII of the Civil Rights Act of 1964 – Equal Employment Opportunity);
- **\*\*29 U.S.C. § 791 et seq.\*\*** (Rehabilitation Act – protections against discrimination in federal employment);
- **\*\*Equal Protection under the Fifth Amendment to the U.S. Constitution.\*\***

**2. Venue is proper under **\*\*28 U.S.C. § 1391(e)\*\***, as Defendant is an officer of the United States acting in his official capacity, and a substantial part of the events giving rise to this claim occurred within this judicial district.**

**### \*\*PARTIES\*\***

3. **\*\*Plaintiff Simon Amunga Nasio\*\*** resides at **\*\*400 North Harrison, Alpine, TX 79832\*\***. Plaintiff is a student at **\*\*American Military University/American Public University\*\***, pursuing a **\*\*Bachelor's Degree in Computer Science and a Bachelor Degree in Law\*\***. Plaintiff is eligible under **\*\*10 U.S.C. § 504(b)(2)(B)\*\*** for discretionary enlistment in the United States Air Force.

4. **\*\*Defendant Secretary of the United States Air Force\*\*** is responsible for the administration of Air Force policies, including the discretionary authority granted under **\*\*10 U.S.C. § 504(b)(2)(B)\*\*** regarding enlistment of non-citizens. Defendant is sued in his official capacity.

**### \*\*STATEMENT OF FACTS\*\***

5. Plaintiff is not a lawful permanent resident but qualifies for discretionary enlistment under **\*\*10 U.S.C. § 504(b)(2)(B)\*\***, which allows the Secretary of the Air Force to authorize enlistment of non-citizens when it is determined to be **\*\*"vital to the national interest."\*\***

6. Plaintiff has made multiple attempts to secure enlistment in the Air Force but has faced procedural obstacles, delays, and arbitrary rejections.

7. Plaintiff filed complaints with the DoD / IG, **\*\*Air Force Inspector General (AF/IG)\*\***, the **\*\*Air Education and Training Command Inspector General (AETC/IGQ)\*\***, and the **\*\*Office of the Secretary of the Air Force Inspector General (SAF/IG)\*\***, but these complaints were dismissed without proper review.

8. The Air Force has failed to provide a substantive response or justification for its refusal to exercise discretionary authority under **\*\*10 U.S.C. § 504(b)(2)(B)\*\***, constituting an arbitrary and capricious action under federal law.

9. The Defendant's refusal to process Plaintiff's application also violates **\*\*5 U.S.C. § 2301 et seq.\*\*** (Merit System Principles), which require fairness in hiring and employment decisions.

10. Defendant's inaction and procedural barriers amount to discrimination in violation of **\*\*Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e et seq.)\*\*** and the **\*\*Rehabilitation Act (29 U.S.C. § 791 et seq.)\*\***, as they create unfair and disparate treatment of non-citizens.

### **### \*\*LEGAL CLAIMS\*\***

#### **#### \*\*Count I: Violation of the Administrative Procedure Act (5 U.S.C. § 706)\*\***

11. Defendant's refusal to process Plaintiff's enlistment application constitutes an **\*\*arbitrary and capricious\*\*** action under the **\*\*Administrative Procedure Act (APA), 5 U.S.C. § 706(2)\*\***.

#### **#### \*\*Count II: Violation of 10 U.S.C. § 504(b)(2)(B)\*\***

12. Defendant has **\*\*failed to properly exercise discretion\*\*** granted under **\*\*10 U.S.C. § 504(b)(2)(B)\*\***, which allows for enlistment of non-citizens when in the national interest.

#### **#### \*\*Count III: Violation of the Merit System Principles (5 U.S.C. § 2301 et seq.)\*\***

13. Defendant's failure to fairly process Plaintiff's enlistment violates the **\*\*Merit System Principles\*\***, which require fairness in hiring and prohibit arbitrary employment decisions.

#### **#### \*\*Count IV: Violation of Equal Employment Opportunity Laws (42 U.S.C. § 2000e et seq.)\*\***

14. Defendant's refusal to process Plaintiff's application based on **\*\*citizenship status\*\*** constitutes **\*\*employment discrimination\*\*** in violation of **\*\*Title VII of the Civil Rights Act of 1964\*\***.

#### **#### \*\*Count V: Violation of the Rehabilitation Act (29 U.S.C. § 791 et seq.)\*\***

15. Defendant's actions create unnecessary procedural barriers that disproportionately impact individuals like Plaintiff, violating the **\*\*Rehabilitation Act\*\***.

**#### \*\*Count VI: Violation of the Equal Protection Clause (Fifth Amendment)\*\***

16. Defendant's refusal to process Plaintiff's application without valid justification violates **\*\*Equal Protection under the Fifth Amendment\*\***, as it creates unjustifiable and discriminatory barriers to enlistment.

**### \*\*PRAYER FOR RELIEF\*\***

WHEREFORE, Plaintiff respectfully requests that this Court:

A. **\*\*Declare\*\*** that Defendant's actions and inactions violated **\*\*10 U.S.C. § 504(b)(2)(B)\*\***, the **\*\*APA (5 U.S.C. § 706)\*\***, the **\*\*Merit System Principles (5 U.S.C. § 2301 et seq.)\*\***, **\*\*Title VII (42 U.S.C. § 2000e et seq.)\*\***, the **\*\*Rehabilitation Act (29 U.S.C. § 791 et seq.)\*\***, and the **\*\*Equal Protection Clause\*\*** of the **\*\*Fifth Amendment\*\***.

B. **\*\*Issue an injunction\*\*** requiring Defendant to properly evaluate Plaintiff's enlistment application in accordance with **\*\*10 U.S.C. § 504(b)(2)(B)\*\*** and other applicable laws.

C. **\*\*Award Plaintiff reasonable costs and fees\*\***, if applicable.

D. **\*\*Grant any other relief\*\*** that the Court deems just and proper.

**### \*\*JURY DEMAND\*\***

**Plaintiff demands a \*\*jury trial\*\* on all issues so triable.**

**\*\*Respectfully submitted,\*\***

**\*\*Simon Amunga Nasio\*\***

**\*\*400 North Harrison, Alpine, TX 79832\*\***

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